

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUFINA HILARIO GARCIA, individually
and on behalf of Ce.H.G., M.H.G., P.H.G.,
Ca.H.G., and O.H.G., minors, being the heirs
of and successors-in-interest to SANTO
HILARIO GARCIA and MARCELINA
GARCIA PROPECTO,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. 1:20-cv-0093-NONE-JLT

ORDER ADOPTING IN FULL THE
FINDINGS AND RECOMMENDATIONS
GRANTING PLAINTIFFS' MOTION FOR
APPROVAL OF THE MINORS'
COMPROMISE

(Doc. Nos. 37, 47)

Plaintiffs are the children of Santo Hilario Garcia and Marcelina Garcia Profecto, and assert the United States is liable for the wrongful deaths of their parents following a high-speed vehicle chase involving agencies of the United States Department of Homeland Security and Immigration and Customs Enforcement Agency. (Doc. No. 1.) Plaintiffs sought approval of the settlement reached with the defendant, which indicated its support for the petition. (Doc. Nos. 37, 38.)

The assigned magistrate judge determined the proposed settlement was fair, reasonable, and in the best interests of plaintiffs Ce.H.G., M.H.G., P.H.G., Ca.H.G., and O.H.G. (Doc. No. 47 at 8–11.) In addition, the magistrate judge found the proposed method of disbursement of the

1 settlement via annuities, with remaining funds being placed in blocked accounts for the plaintiffs
2 that remain minors, also was fair and reasonable. Therefore, the magistrate judge recommended
3 the motion for approval of the minors' compromise be granted. (*Id.* at 12.)

4 The parties were given fourteen days to file any objections to the recommendations.
5 (Doc. No. 14 at 12.) The parties were "advised that failure to file objections within the specified
6 time may waive the right to appeal the District Court's order." (*Id.* at 13, citing *Martinez v. Ylst*,
7 951 F.2d 1153 (9th Cir. 1991); *Wilkerson v. Wheeler*, 772 F.3d 834, 834 (9th Cir. 2014).) On
8 August 23, 2021, the parties filed a joint statement to "confirm that they do not have any
9 objections to the amended Findings and Recommendations approving the settlement and
10 Petition..." (Doc. No. 48 at 1.)

11 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and *Britt v. Simi Valley*
12 *United School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), this court conducted a *de novo* review of
13 the case. Having carefully reviewed the file, the court finds the findings and recommendations
14 are supported by the record and proper analysis. Accordingly,

- 15 1. The findings and recommendations dated August 19, 2021 (Doc. No. 47) are
16 adopted in full;
- 17 2. The settlement total of \$600,000.00 is approved;
- 18 3. The initial lump payment of \$250,000.00—from which the requested fees and
19 expenses shall be taken—is approved;
- 20 4. The separate, lump sum payment to Ms. Garcia in the amount of \$89,994.54 is
21 denied;
- 22 5. From the initial lump sum payment, plaintiffs shall place \$14,999.09 in a blocked
23 account for each minor, from which funds may be withdrawn only upon a written
24 order of the court and shall file proof of the creation of these accounts within 30
25 days of this order;
- 26 6. From the initial lump sum payment, Ms. Garcia and Ce.H.G. shall each receive
27 \$14,999.09, paid directly to Ms. Garcia and Ce.H.G.;

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7. The parties shall file a joint stipulation to dismiss the action within 45 days of this order; and

8. This court will retain jurisdiction over this action in order to resolve any disputes related to the parties' settlement agreement.

IT IS SO ORDERED.

Dated: **August 25, 2021**

Dale A. Inge
UNITED STATES DISTRICT JUDGE